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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

SUNSET COMMERCIAL LLC,  
  
Plaintiff,  
  
v.  
  
BAYER CROPSCIENCE, INC., et al.,  
  
Defendants.

Case No. 2:23-cv-02081-GMN-BNW

**CONSENT DECREE**

This settlement agreement and Consent Decree is made by and between Plaintiff Sunset Commercial LLC (“Sunset”), Defendant United States of America (“United States”), and Defendant Atlantic Richfield Company (“Atlantic Richfield”).

WHEREAS, on December 14, 2023, Sunset commenced the above-captioned civil action;

WHEREAS, on April 15, 2024, Sunset filed an Amended Complaint, which is the operative complaint at the time of this Consent Decree;

1 WHEREAS, Sunset asserts two claims against the United States, Atlantic Richfield,  
2 and other defendants under the Comprehensive Environmental Response, Compensation,  
3 and Liability Act ("CERCLA"), 42 U.S.C. §§ 9607(a), 9613(g)(2), to recover costs Sunset  
4 allegedly incurred in response to the release of Hazardous Substances at the Sunset Site, as  
5 defined herein, and seeking a declaration as to the liability of the United States, Atlantic  
6 Richfield, and other defendants for response costs or damages to be incurred in the future  
7 ("CERCLA Claims");

8 WHEREAS, Sunset also asserts pendent state law claims for private nuisance under  
9 Nev. Rev. Stat. § 40.140, trespass, strict liability for abnormally dangerous activities, and  
10 negligence against Atlantic Richfield and other defendants ("State Law Claims");

11 WHEREAS, if the United States or Atlantic Richfield are required to serve  
12 responsive pleadings, they may assert contribution claims under CERCLA section 113(f)  
13 against Sunset and one another and likely other defendants;

14 WHEREAS, Sunset alleges it has incurred more than \$6 million in past response  
15 costs associated with the Sunset Site;

16 WHEREAS, Sunset, the United States, and Atlantic Richfield desire to enter into  
17 this Consent Decree to fully and finally resolve all claims that were, could have been, or  
18 hereafter could be asserted by Sunset against the United States or Atlantic Richfield, by  
19 Atlantic Richfield against the United States or Sunset, and by the United States against  
20 Atlantic Richfield or Sunset in connection with the Sunset Site and to avoid the  
21 complication, risks, and expense of further litigation of such claims;

22 WHEREAS, Sunset, the United States, and Atlantic Richfield enter into this  
23 Consent Decree as a final settlement and compromise of all claims and potential claims set  
24 forth herein;

25 WHEREAS, Sunset, the United States, and Atlantic Richfield enter into this  
26 Consent Decree without admitting any liability arising from occurrences or transactions  
27 pertaining to the Sunset Site; and  
28

1 WHEREAS, Sunset, the United States, and Atlantic Richfield agree that this  
2 Consent Decree is fair, reasonable, consistent with CERCLA's purposes, and in the  
3 public interest.

4 NOW, THEREFORE, before taking of any testimony upon the pleadings, without  
5 further adjudication of any issue of fact or law, and upon consent of the Settling Parties, as  
6 defined herein, by their authorized representatives, it is hereby ORDERED, ADJUDGED,  
7 AND DECREED:

8 1. Application of this Consent Decree. This Consent Decree applies to, is  
9 binding upon, and inures to the benefit of the Settling Parties. This Consent Decree does  
10 not extend to or inure to the benefit of any party, person, or entity other than the Settling  
11 Parties, except as expressly provided herein, and nothing in this Consent Decree shall be  
12 construed to make any other person or entity not referenced in this Consent Decree a third-  
13 party beneficiary to this Consent Decree.

14 2. Definitions. Unless otherwise expressly provided herein, terms used in this  
15 Consent Decree that are defined in CERCLA or its implementing regulations shall have  
16 the meaning assigned to them in CERCLA or its implementing regulations. Whenever the  
17 terms listed below are used in this Consent Decree, the following definitions shall apply:

- 18 a. "Action" means the above-captioned litigation.
- 19 b. "Atlantic Richfield" means Atlantic Richfield Company, its corporate  
20 predecessors, parents, subsidiaries, designees, agents, attorneys, successors, and assigns.
- 21 c. "CERCLA" means the Comprehensive Environmental Response,  
22 Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601–9675
- 23 d. "Covered Matters" means any and all past, present, or future claims,  
24 demands, remedies, causes of action, suits, debts, liabilities, costs, fees, expenses, losses,  
25 and damages of whatever kind, whether known or unknown, accrued or unaccrued, fixed  
26 or contingent, whether arising under statute, under common law, by contract, or otherwise,  
27 that were, could have been, or hereafter could be asserted arising out of Sunset's Response  
28 Costs, Sunset's cleanup of the Sunset Site, or any alleged loss of use or other economic loss

1 or injury suffered by Sunset as a result of or relating to the release of pollutants and  
2 contamination at, on, under, or migrating from or onto the Sunset Site, except as otherwise  
3 provided in Paragraph 4(b).

4 e. “Day” means a calendar day. In computing any period under this  
5 Consent Decree, where the last day would fall on a Saturday, Sunday, or Federal holiday,  
6 the period shall run until the close of business on the next day that is not a Saturday,  
7 Sunday, or Federal holiday.

8 f. “Effective Date” means the date upon which the Court’s approval  
9 and entry of this Consent Decree is recorded on its docket.

10 g. “Federal Contract” means any prime contract, subcontract, or any  
11 other agreement transferring value between Sunset and any department, agency, or  
12 instrumentality of the United States, including but not limited to, contracts for goods or  
13 services, grants, and cooperative agreements. The term “Federal Contract” does not  
14 include this Consent Decree.

15 h. “Hazardous Substance” has the meaning set forth in CERCLA, 42  
16 U.S.C. § 9601(14). This definition includes any material determined by the United States or  
17 federal law to be a “hazardous substance” after the Effective Date.

18 i. “Release” has the meaning set forth in CERCLA, 42 U.S.C.  
19 § 9601(22).

20 j. “Response Costs” means all response costs, fees, expenses, or other  
21 amounts incurred or paid by Sunset relating to the removal and remediation of Hazardous  
22 Substances, hazardous waste, petroleum or petroleum products, or other pollutants or  
23 contamination at, on, or under, or migrating from or onto the Sunset Site, including  
24 Sunset’s alleged necessary costs of response incurred consistent with the National  
25 Contingency Plan. This term includes, but is not limited to, all costs that Sunset sought to  
26 recover from the Settling Defendants, all costs that Sunset could have sought to recover  
27 from the Settling Defendants, and all costs for which Sunset sought a declaration on  
28 liability in connection with the Sunset Site in this Action.

1 k. “Settling Defendants” means the United States and  
2 Atlantic Richfield, each a “Settling Defendant.”

3 l. “Settling Parties” means Sunset and the Settling Defendants, each a  
4 “Settling Party.”

5 m. “Sunset” means Sunset Commercial LLC, a Nevada limited-liability  
6 company.

7 n. “Sunset Site” means the 32.64 parcel located at 347 West Sunset  
8 Road, Henderson, Nevada, as identified and described in the Amended Complaint.

9 o. “Third-Party Reimbursement” means any payment of, or  
10 consideration for, Response Costs that Sunset receives from any person or entity, including  
11 but not limited to, direct payments, insurance or contract recoveries, the discharge of any  
12 debt or obligation, or the satisfaction of any claims, causes of action, suits, or demands of  
13 any kind whatsoever in law or in equity. Third-Party Reimbursement shall not include  
14 money being paid by the Settling Defendants pursuant to Paragraph 7 of this  
15 Consent Decree.

16 p. “United States” means the United States of America and all its  
17 agencies, departments, and instrumentalities, their officers, directors, and employees acting  
18 in their capacity as such, and any predecessors, successors, and assigns.

19 3. Representations and Certifications by Sunset.

20 a. Sunset, through its current officers as of the Effective Date, represents,  
21 warrants, and certifies : (1) that Sunset has not recovered and will not seek to recover any  
22 Response Costs under any Federal Contract; (2) Sunset has not, and shall not, assign,  
23 convey, or transfer any rights to recovery, claims for Response Costs, or damages with  
24 respect to the Sunset Site, or any part of such claims, to any person or entity who is not a  
25 party to this Consent Decree; and (3) Sunset has not, and shall not, collect or in the future  
26 seek or collect any Third-Party Reimbursement of the Settling Defendants’ payments  
27 provided for in Paragraph 7.  
28

1           b.       Sunset's representations, warranties, and certifications are central to  
2 the Settling Defendants' agreement to make the payments provided for in this Consent  
3 Decree, and the Settling Defendants reserve all rights against Sunset for the breach of the  
4 certifications and representations in Paragraph 3(a). For the avoidance of doubt, and except  
5 as otherwise provided in Paragraph 4(d), nothing in this Consent Decree shall preclude  
6 Sunset or the Settling Defendants from recovering from any person or entity who is not a  
7 party to this Consent Decree any response costs or damages not included within the  
8 Covered Matters.

9           4.       Releases, Covenants Not to Sue, and Reservations.

10           a.       Upon the Effective Date, each Settling Party hereby forever releases,  
11 discharges, and covenants and agrees not to assert (by way of the commencement of an  
12 action, the joinder of any Settling Party in an existing action, or in any other fashion) any  
13 and all claims, causes of action, suits, or demands of any kind whatsoever in law or in  
14 equity which any such Settling Party may have had, or hereafter may have, including, but  
15 not limited to the Action or any other claims under CERCLA sections 107, 112, or 113,  
16 Nev. Rev. Stat. § 40.140, or common law, against any other Settling Party for the  
17 Covered Matters. With respect to Sunset, this release and covenant not to sue shall be  
18 binding upon and inure to the benefit of each of its manager(s) and member(s).

19           b.       Notwithstanding Paragraph 4(a) or any other provision in this  
20 Consent Decree, the United States does not release and specifically reserves its right to  
21 assert against Sunset and Atlantic Richfield, or any other individual or entity, any claims or  
22 actions regarding the Sunset Site that may be brought on behalf of the United States  
23 Environmental Protection Agency or a federal natural resource trustee. Nothing in this  
24 Consent Decree shall constitute or be construed as a waiver, limitation, or release of any  
25 claims or causes of action by the United States to enforce any federal laws or regulations in  
26 connection with the Sunset Site.

1 c. Notwithstanding Paragraph 4(a) or any other provision in this  
2 Consent Decree, each Settling Party does not release and specifically reserves its rights to  
3 enforce and assert claims for breach of this Consent Decree.

4 d. Except as otherwise provided in Paragraph 4(b), Settling Defendants  
5 agree not to assert any claims and to waive all claims or causes of action (including but not  
6 limited to claims or causes of action under Section 107(a) or 113 of CERCLA) that they  
7 may have for any portion of the payments required under Paragraphs 7(a) and 7(b) against  
8 each other or any other person who is a potentially responsible party under CERCLA at  
9 the Sunset Site. This waiver shall not apply with respect to any defense, claim, or cause of  
10 action that a Settling Defendant may have against any person if such person asserts a claim  
11 or cause of action relating to the Sunset Site against such Settling Defendant. This waiver  
12 also shall not apply to any claim to enforce this Consent Decree, including, without  
13 limitation, a claim by either Settling Defendant against Sunset seeking indemnification  
14 pursuant to Paragraph 5.

15 5. Indemnification by Sunset. Sunset agrees to defend (through counsel of  
16 Sunset's choosing with respect to a claim brought against Atlantic Richfield), indemnify,  
17 save, and hold harmless the Settling Defendants from any and all contribution claims  
18 brought or issued by any person or entity who is not a party to this Consent Decree under  
19 CERCLA, Nev. Rev. Stat. § 17.225, or any other law, including future changes to the law,  
20 relating to or arising out of the Covered Matters ("Indemnifiable Claims"). If an  
21 Indemnifiable Claim is brought against Atlantic Richfield, Sunset and Atlantic Richfield  
22 shall have the right to approve any settlement thereof, which approval shall not be  
23 unreasonably withheld. If an Indemnifiable Claim is brought against the United States, the  
24 United States agrees not to settle any such claim without first notifying Sunset of the  
25 United States' intent to settle and providing Sunset with a reasonable opportunity to  
26 discuss any proposed settlement with the United States.



1           6.     Protection Against Claims.

2           a.     The Settling Parties acknowledge and agree that the payments to be  
3 made by the Settling Defendants and the releases and covenants not to sue given by each of  
4 the Settling Parties pursuant to this Consent Decree represent a good faith compromise of  
5 disputed claims held by the Settling Parties and that the compromise represents a fair,  
6 reasonable, and equitable discharge of the Covered Matters addressed in this  
7 Consent Decree.

8           b.     Regarding any claims for costs, damages, or other claims against the  
9 Settling Defendants for the Covered Matters under or addressed in this Consent Decree,  
10 the Settling Defendants are entitled to, as of the Effective Date and provided that the  
11 Settling Defendants make the payments to Sunset pursuant to Paragraph 7 of this Consent  
12 Decree, contribution protection pursuant to section 113(f) of CERCLA, 42 U.S.C.  
13 § 9613(f), the Uniform Comparative Fault Act, Nev. Rev. Stat. § 17.245.1(b), and any other  
14 applicable provision of federal or state law, whether by statute or common law,  
15 extinguishing the Settling Defendants' liability to any person or entity who is not party to  
16 this Consent Decree. Except as specifically provided herein, each Settling Party reserves all  
17 rights to seek and obtain contribution, or otherwise recover costs or damages, from any  
18 person or entity who is not party to this Consent Decree, and any such rights are preserved.

19           c.     The Settling Parties agree that this Consent Decree is intended to  
20 resolve the Settling Parties' liability to each other for the Covered Matters and grant  
21 protection from, and to bar any known or unknown, claims against the Settling Defendants  
22 for the Covered Matters to the fullest extent permitted by law. Sunset assumes and bears  
23 the risk if it is ultimately determined that the amounts paid pursuant to Paragraph 7 are less  
24 than any Settling Defendant's equitable share of Response Costs, damages, or both, alleged  
25 by Sunset. In the event of any such determination, the full amount of any under-payment  
26 shall be borne solely by Sunset. Nothing in this paragraph shall be construed to limit  
27 Sunset's rights to pursue cost recovery or contribution from any person or entity who is not  
28 party to this Consent Decree.



1           7.     Reimbursement of Response Costs to Sunset.

2           a.     Within 120 days after the Effective Date, the United States will pay  
3 \$525,000.00 to Sunset. However, the United States' payment obligation in this Consent  
4 Decree shall be suspended in the event of any appeals from this approval until 120 days  
5 after entry of final judgment following any appeals.

6           b.     Within 120 days after the Effective Date, Atlantic Richfield will pay  
7 \$175,000.00 to Sunset. However, Atlantic Richfield's payment obligation in this Consent  
8 Decree shall be suspended in the event of any appeals from this approval until 120 days  
9 after entry of final judgment following any appeals.

10          c.     Payments in Paragraphs 7(a) and 7(b) shall be made by Electronic  
11 Funds Transfer in accordance with payment information to be provided by Sunset to the  
12 Settling Defendants within 7 days after the Effective Date.

13          d.     If any payments required to be made by Paragraph 7 are not made in  
14 accordance with the time allowed for herein, interest on the unpaid balance shall accrue  
15 from the date on which the payment was due at the rate specified for interest on  
16 investments of the Hazardous Substance Superfund established under subchapter A of  
17 chapter 98 of Title 26 of the United States Code.

18          e.     Payment by the United States is subject to the availability of funds  
19 appropriated for such purpose. No provision of this Consent Decree shall be interpreted as  
20 or constitute a commitment or requirement that the United States obligate or pay funds in  
21 contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341.

22          8.     Effect of Settlement and Entry of Judgment.

23          a.     This Consent Decree was negotiated and executed by the Settling  
24 Parties in good faith and at arm's length and is a fair and equitable compromise of claims,  
25 which were vigorously contested and are denied.

26          b.     Concurrently with the Settling Parties' execution of this Consent  
27 Decree, Sunset shall move for approval and entry of this Consent Decree by the Court. The  
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1 Settling Parties agree to join in or support, as appropriate, such legal proceedings as  
2 necessary to secure the Court's approval and entry of this Consent Decree.

3 c. Upon the Effective Date, this Consent Decree shall constitute a final  
4 judgment among the Settling Parties with respect to all claims asserted in this litigation  
5 against the Settling Defendants and the Covered Matters.

6 d. Upon the Effective Date, all claims brought by Sunset against the  
7 Settling Defendants in this Action shall be dismissed with prejudice. Each of the Settling  
8 Parties shall bear its own litigation and administrative costs and expenses relating to the  
9 Action, including attorney's fees.

10 e. If for any reason the Court should decline to approve this Consent  
11 Decree in the form presented, this Consent Decree is voidable at the discretion of any of  
12 the Settling Parties, and the terms of this Consent Decree may not be used as evidence in  
13 any litigation or appeals between or against the Settling Parties.

14 9. Retention of Jurisdiction. This Court shall retain jurisdiction over both the  
15 subject matter of this Consent Decree and the Settling Parties for the duration of the  
16 performance of the terms and provisions of this Consent Decree for the purpose of enabling  
17 any Settling Party to apply to the Court consistent with this Consent Decree for such  
18 further order, direction, and relief as may be necessary or appropriate for the construction  
19 or modification of this Consent Decree, or to effectuate or enforce compliance with its  
20 terms, or to resolve any disputes arising under this Consent Decree.

21 10. No Admission of Liability. This Consent Decree, including any payments  
22 made pursuant to it and the negotiations and other communications related to it, is not and  
23 shall not be construed as an admission by the Settling Parties of any factual allegations  
24 made in this Action, an admission of liability, or an admission of any other kind or  
25 character whatsoever by the Settling Parties.

26 11. No Use as Evidence. This Consent Decree represents the compromise of  
27 disputed claims and nothing in this Consent Decree is intended to be, or shall be construed  
28 as, an admission or adjudication of any question of fact or law with respect to any liability

1 or responsibility for the Sunset Site. This Consent Decree shall not be admissible in any  
2 proceeding other than in an action brought by any of the Settling Parties to enforce this  
3 Consent Decree.

4 12. Conflicts of Law. This Consent Decree shall be governed and construed  
5 under the laws of the United States.

6 13. Severability. If any provision of this Consent Decree is deemed invalid or  
7 unenforceable, the balance of this Consent Decree shall remain in full force and effect.

8 14. Headings. Any paragraph headings or section titles to this Consent Decree  
9 are provided solely as a matter of convenience to the reader and shall not be construed to  
10 alter the meaning of any paragraph or provision of this Consent Decree.

11 15. Integration Provision. This Consent Decree constitutes the entire agreement  
12 between the Settling Parties with respect to matters covered herein. All prior discussions,  
13 drafts, and writings are specifically superseded by this Consent Decree and may not be used  
14 to vary or contest the terms of this Consent Decree.

15 16. Joint Drafting. This Consent Decree has been jointly negotiated and drafted.  
16 The language of this Consent Decree shall be construed according to its fair meaning and  
17 without regard to the role that any of the Settling Parties played in the preparation of this  
18 Consent Decree. Each of the Settling Parties has been advised by its own counsel in  
19 connection with this Action and this Consent Decree, and each of the Settling Parties  
20 agrees that it is not relying on any representations or omissions of the other Settling Parties  
21 in signing this Consent Decree, other than those representations contained within this  
22 Consent Decree.

23 17. Representative Authority. The individuals signing this Consent Decree  
24 below hereby certify that they are authorized to bind their respective party to this  
25 Consent Decree.

1           18.   Original Counterparts. This Consent Decree may be signed in counterparts,  
2 and its validity shall not be challenged on that basis.


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4 **IT IS SO ORDERED.**

5 Dated and entered this 16 day of January 2025.

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9 GLORIA M. NAVARRO  
10 United States District Judge  
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1 ON BEHALF OF PLAINTIFF SUNSET COMMERCIAL LLC

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3 Dated: November 5, 2024

  
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Manager: Main 1000, LLC by and through its  
managing member, David Emrani

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7 Dated:

\_\_\_\_\_  
Manager: White Knight Land Acquisition #11,  
LLC by and through its managing member,  
Steve Byrne

1 ON BEHALF OF PLAINTIFF SUNSET COMMERCIAL LLC  
2

3 Dated:

\_\_\_\_\_  
4 Manager: Main 1000, LLC by and through its  
5 managing member, David Emrani

6  
7 Dated: 11/05/2024

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8 Manager: White Knight Land Acquisition #11,  
9 LLC by and through its managing member,  
10 Steve Byrne  
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1 FOR DEFENDANT UNITED STATES OF AMERICA

2  
3 Dated:

11/4/24

TODD KIM

Assistant Attorney General  
Environment & Natural Resources Division  
United States Department of Justice

6  
7 By:



BRANDON N. ADKINS

Senior Trial Counsel

RACHEL MARTINEZ

Trial Attorney

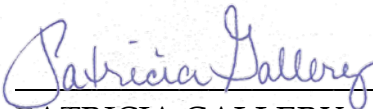
United States Department of Justice

Attorneys for Defendant United States



1 FOR DEFENDANT ATLANTIC RICHFIELD COMPANY

2  
3 Dated: November 4, 2024

  
\_\_\_\_\_  
PATRICIA GALLERY  
President